

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

LORAIN FINDLEY,

Plaintiff,

-against-

No. 23-CV-00946-LTS-RFT

HENRY J. CARTER,

Defendant.

-----X

ORDER

The Court has received a letter from counsel for the remaining defendant, Henry J. Carter (the “Defendant”), which discusses issues that have arisen in the context of discovery. (Docket entry no. 98.) The letter asserts, with no evidentiary proffer, that there is no subject matter jurisdiction because Defendant is not an employee of the City of New York. (See id.) As the letter motion does not comply with local rules, as discussed in the Order filed at docket entry no. 80, the Clerk of Court is directed to terminate docket entry no. 98, without prejudice to renewal of the request in accordance with said local rules.

The Court reminds counsel that, if Defendant seeks to file a motion premised on facts not pleaded in the complaint, the motion should be cast as a motion for summary judgment and accompanied by facts Defendant deems relevant in evidentiary form, e.g., a declaration or affidavit.

Defendant is encouraged to pursue this issue promptly in a procedurally proper manner.

SO ORDERED.

Dated: New York, New York
September 6, 2024

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge